In the High Court of Punjab and Haryana at Chandigarh

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(1) Criminal Misc. No.19949-M of 2007

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Date of decision:31.8.2007

Rajeev Sharma

.....Petitioner

v.

State of Haryana

.....Respondent

....

(2) Criminal Misc. No.21327-M of 2007

.....

Surinder Kukreja alias Happy

.....Petitioner

v.

State of Haryana

.....Respondent

....

Present: Mr. Akshay Bhan, Advocate for the petitioner in Cr. Misc. No.19949-M of 2007.

Mr. K.S. Chahal, Advocate for the petitioner in Cr. Misc. No.21327-M of 2007.

Mr. Narender Sura, Assistant Advocate General, Haryana for the respondent-State.

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S.S. Saron, J. (Oral)

This order will dispose of Criminal Misc. No.19949-M of 2007 filed by Rajeev Sharma and Criminal Misc. No.21327-M of 2007 filed by Surinder Kukreja alias Happy as they arise out of the same FIR and relate to the same occurrence. The respective petitioners in the two petitions pray for the grant of pre-arrest bail.

The FIR has been registered on the statement of Ranjit Singh Kasana who has alleged that on 23.2.2007 at about 12.00 a.m. at night he accompanied by his friends Baljit Singh Saini and Raja had gone to attend a wedding reception of their friend Vikas Sharma at Royal Park Hotel Banquet, Sector 11, Faridabad. There was a huge gathering and the people were dancing and singing on the dance floor including Rajeev Sharma (petitioner in Criminal Misc. No.19949-M of 2007) and Happy (petitioner in Criminal Misc. No.21327-M of 2007) and 6-7 other persons. These persons were misbehaving with other boys on the dance floor and were pushing people around. On this, the complainant Ranjit Singh Kasana and his friends Raja, Baljit Singh and Rajbir Sharma tried to counsel them but they did not listen. Rajeev Sharma and others rather abused the complainant. On this, the complainant along with his friends Raja and Baljit Singh left the premises for home. When they reached outside the Royal Park Hotel Banquet on the dividing road of Sectors 10-11, Rajeev Sharma, Happy and 6-7 others boys stopped their way and started abusing them. In the meanwhile, Rajeev Sharma ran and brought a rod which he hit on the nose of the complainant and remaining friends of Rajeev Sharma assaulted the complainant and his friends Baljit Singh and Raja with wooden sticks and inflicted various injuries. The fight attracted the persons passing by and on seeing them Rajeev Sharma, Happy etc. ran away from the spot.

Mr. Akshay Bhan, Advocate appearing for Rajeev Sharma (petitioner in Criminal Misc. No.19949-M of 2007) has submitted that in the FIR though the injury is attributed to the petitioner Rajeev Sharma,

however, he has referred to the medical examination report of the injured Ranjit Singh (Annexure-P.1) wherein it is recorded that alleged history of assault is at 12.40 a.m. on 24.2.2007 at Royal Park Hotel Garden, Sector 11, Faridabad. It is further mentioned that according to the patient some unknown persons came to the Royal Park Garden, the reception venue and hit the patient at 12.00 a.m. It is further mentioned that the victim was under the influence of liquor at that time. Learned counsel has submitted that it is a case where injuries have been caused by unknown persons and, therefore, the petitioner Rajeev Sharma cannot be said to have caused the injuries. It is submitted that the version given by the complainant in the FIR is completely contrary to the statement given by him before the doctor at Sun Flag Hospital and Research Centre at the time of his admission at 1.00 a.m. on 24.2.2007 which is much earlier in point of time to the registration of the FIR on 25.2.2007.

Mr. K.S. Chahal, Advocate appearing for Surinder Kukreja alias Happy (petitioner in Criminal Misc. No.21327-M of 2007) has submitted that no injury has been attributed to the petitioner in the FIR and there is no motive even for the petitioner to cause injuries. It is submitted that there was no intention or motive to cause the injury to any of the persons by both the parties. In fact, there was some altercation between the group of the complainant and the petitioners' party. The occurrence took place on the intervening night of 23/24.2.2007 and after two days the FIR has been registered. There is no explanation for the delay. It is submitted that there is no explanation as to why the statements of the other alleged present persons, namely, Baljit Singh Saini and Raja were not recorded.

In response, Mr. Narender Sura, learned Assistant Advocate General, Haryana appearing for the State has submitted that no reliance can be placed on the medical report dated 24.2.2007 of the Sun Flag Hospital and Research Centre, Faridabad as when the Police reached the said hospital and sought the opinion of the doctor on 24.2.2007 at 1.00 a.m. it was mentioned that the patient was not fit for giving his statement. It is on 25.2.2007 that the patient was declared fit for giving statement. It is thereafter that the FIR was recorded. Therefore, it is submitted that the earlier version which is recorded cannot be taken into consideration as at that time the patient was not fit.

Mr. Akshay Bhan has, however, seriously disputes the same, inasmuch as, it is stated that the patient was able to give place and time of the occurrence, therefore, he was in a position to identify the accused.

I have given my thoughtful consideration to the contentions of the learned counsel appearing for the respective parties and also gone through the record. It is not in dispute that the wedding reception of the newly wedded couple was being held on 23.2.2007 at Royal Park Hotel, Faridabad. The same is situated on the dividing road of Sectors 10-11 which is also mentioned in the wedding card (Annexure-P.2). During the wedding reception a dance party was going on and a fight had ensued between the parties. In fact, in the petition filed by Surinder Kukreja alias Happy (petitioner in Criminal Misc. No.21327-M of 2007) it has been stated that after the fight, the persons had gathered and advised that they should go to their respective homes and that is the reason that no complaint was lodged from the side of the petitioners as both sides received minor

injuries. Therefore, the fact that a fight had taken place in the Hotel is more or less admitted. Thereafter, the persons came outside the venue and Rajeev Sharma (petitioner) had given a blow with his `Saria' on the back of the head of the complainant. The injury on the back of the head has been opined to be dangerous to life for which the FIR for the offence under Section 307 IPC has been registered. The question as regards the statements said to have been made at the time of admission of the complainant at Sun Flag Hospital and Research Centre would more appropriately be gone into and considered during the investigation of the case. The fact that an injury is caused on the head with `Saria' would not entitle the petitioner Rajeev Sharma to the concession of pre-arrest bail.

Insofar as, Surinder Kukreja alias Happy is concerned, he has been attributed a blow on the nose of the injured complainant. It may be noticed that in the initial statement which was recorded on 25.2.2007 by ASI Satbir Singh, it has been recorded on the statement of Ranjit Singh Kasana that Rajeev Sharma ran and brought a rod and hit on the back side of the head and there was an iron rod in the hand of Happy also with which he hit on the face (nose). However, while recording the formal FIR on the basis of the statement of the injured by Satbir Singh ASI the fact that Happy had an iron rod in his hand with which he caused injury on the nose of the complainant has inadvertently been left out. Besides, the mistake also appears as regards the injury being caused by Rajeev Sharma (petitioner) on the back of the head of the injured-complainant. Therefore, evidently both the petitioners in the respective petitions i.e. Rajeev Sharma and Surinder Kukreja alias Happy have caused injuries with iron rods on the vital part of

injured complainant. Consequently, they are not entitled for the concession of pre-arrest bail.

Accordingly, both the criminal miscellaneous petitions are dismissed. However, in case the petitioners surrender before the Police within five days of the receipt of the certified copy of this order, their applications for regular bail shall be considered within a period of ten days thereafter.

August 31, 2007. **(S.S. Saron)**
Judge

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